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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CONLEY, FREDRICK C

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/771,759

Applicant(s)

GOTTLIEB, NATHAN

Examiner

FREDRICK C. CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10, 11, 14 and 17-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-7, 10, 11 and 14 is/are rejected.
7) ☒ Claim(s) 17-20 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/17/04.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The indicated allowability of claims 9, 13, and 16 is withdrawn in view of the newly discovered reference(s) to U.S. Pat. No. 6,126,237 to Ritterhouse. Rejections based on the newly cited reference(s) follow. The Examiner regrets any inconvenience.

Claim Objections

In Claim 1, the Applicant's recitation "one weight suspended from the edge of the bed" bring positive recitation of the bed into the claim thus it is unclear if the Applicant intends to claim the apparatus as a subcombination or in combination with the bed. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7 and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,126,237 to Ritterhouse.

Claim 1, Ritterhouse discloses an apparatus for limiting movement of a pillow 30 relative to a bed 121 comprising: at least one flexible member 140 engaged with the pillow, and a cord lock 155 having a weight suspended from the edge of the bed with the flexible member, wherein the at least one device having a weight further comprises at least one channel wherein the at least one flexible member is received in the at least

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one channel 61 and said apparatus further comprises means 62 for closing the at least one channel. A bed is defined as a piece of furniture for reclining and sleeping therefor the bed of Ritterhouse clearly meets the claim limitation as recited in the claim.

Claim 2, wherein the at least one flexible member is releasably engaged with the pillow.

Claim 3, wherein the flexible member comprises a tube 60.

Claim 4, wherein the flexible member further comprises a string.

Claim 5, wherein the at least one flexible member further comprises; a plurality of flexible members concurrently engaged with the pillow and with the weight.

Claim 6, wherein the at least one flexible member is movably associated with the at least one weight.

Claim 7, further comprising: means 62 for limiting movement of the at least one flexible member relative to the at least one weight.

Claim 10, Ritterhouse discloses a method for limiting movement of a pillow relative to a bed comprising the steps of:

engaging at least one flexible member 140 with the pillow 30 suspending at least one device 155 having a weight from the edge of the bed 121, defining a channel 61 with the weight; positioning the flexible member in the channel; and substantially covering the channel after the positioning step by releasing the button 62. A bed is defined as a piece of furniture for reclining and sleeping therefor the bed of Ritterhouse clearly meets the claim limitation as recited in the claim.

Claim 11, further comprising the step of;

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selectively spacing the at least one weight and the pillow with respect to one another along a length of the at least one flexible member.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,126,237 to Ritterhouse in view of U.S. Pat. No. 6,666,426 to Taylor.

Claim 14, Ritterhouse discloses an apparatus for limiting movement of a pillow 30 relative to a bed 121 comprising the steps of: first and second fasteners 145 with the pillow;

first and second flexible members 140 engaged with respect to the first and second clips, respectively, and at least one weight 155 defining a shaft suspended from an edge of

the bed with the first and second flexible members wherein the shaft further comprises first and second channels 61 wherein the first and second flexible members are individually positionable in the first and second channels, respectively; and wherein the apparatus further comprising first and second end caps 62 individually positionable with respect to ends of the shaft to enclose the first and second channels, respectively.

A bed is defined as a piece of furniture for reclining and sleeping therefor the bed of Ritterhouse clearly meets the claim limitation as recited in the claim. Ritterhouse fails to

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disclose the first and second fasteners comprising clips. Taylor discloses fasteners for a cushion comprising clips 124. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ clips as taught by Taylor in order to provide an alternate fastening member for the pillow of Rittenhouse.

Allowable Subject Matter

Claims 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-7, 10-11, and 14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



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